

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL RODMAN,
Plaintiff,
v.
SAFEWAY INC.,
Defendant.

Case No. 11-cv-03003-JST

**ORDER REQUESTING
SUPPLEMENTAL BRIEFING RE:
UNCONSCIONABILITY**

Re: Dkt. No. 171

The Court requests supplemental briefing from the parties addressing whether the contract language below is either procedurally or substantively unconscionable under California law:

“21. Changes to Terms and Conditions.

Safeway reserves the right to, from time to time, with or without notice to you, in Safeway’s sole discretion, amend the Terms and Conditions for Use and purchases regarding the online shopping services. Any amendments by Safeway will be effective only as to orders you place after Safeway’s revisions of these Terms and Conditions as displayed on the Web site. It is your responsibility to review the Terms and Conditions before submitting each order. Safeway has no responsibility to notify you of any changes before such changes are effective.”¹

The arguments the parties present should include, without limitation, a discussion of the California Supreme Court’s treatment of unconscionability in *Armendariz v. Foundation Health Psychcare Services, Inc.*, 24 Cal.4th 83 (2000).

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¹ This order does not decide the question of whether this version of the Special Terms was operative on Safeway’s website.

Opening supplemental briefs, not to exceed 15 pages in length, are due by October 1, 2014. Either party may, but is not required to, file a reply supplemental brief of not more than 10 pages by October 15, 2014.

IT IS SO ORDERED.

Dated: September 17, 2014


JON S. TIGAR
United States District Judge